

1 S.146

2 An act relating to the permitting of indirect discharges

3 It is hereby enacted by the General Assembly of the State of Vermont:

4 Sec. 1. FINDINGS

5 The General Assembly finds that:

6 (1) the federal Clean Water Act requires states to adopt an
7 antidegradation policy and requirements for implementation of the policy;

8 (2) the Agency of Natural Resources (ANR) has initiated rulemaking for
9 the Antidegradation Implementation Rule;

10 (3) the ANR Antidegradation Implementation Rule shall ensure that the
11 level of water quality necessary to support uses of State waters shall be
12 maintained, and waters shall be managed to minimize risk to existing and
13 designated uses of State waters;

14 (4) the ANR Antidegradation Implementation Rule also shall clarify
15 how proposed new discharges to State waters will be reviewed and permitted
16 by ANR;

17 (5) the ANR Antidegradation Implementation Rule shall require
18 consideration of cumulative impacts to the receiving water during the
19 evaluation of any proposed discharge;

20 (6) pursuant to the ANR Antidegradation Implementation Rule, the
21 Secretary of Natural Resources shall require a site-specific Tier 2 analysis

1 through the use of individual permits to ensure the protection of waters that are
2 Class A(1), B(1), or A(2) when proposed activities may result in a measurable
3 reduction in the physical, chemical, or biological quality of such waters due to
4 their location, size, and scale and provided that the Secretary determines water
5 quality data meets or exceeds the minimum criteria for these classes; or the
6 Secretary has received an administratively and technically complete
7 reclassification petition for such waters; and

8 (7) the Secretary shall propose to reclassify waters where water quality
9 data meets or exceeds the minimum criteria for a higher class for one or more
10 designated uses to allow for the protection and maintenance of designated uses
11 of the water supported by the higher water quality.

12 Sec. 2. 10 V.S.A. § 1259(d) is amended to read:

13 (d) No person shall cause a discharge of wastes into a Class A ~~waters~~ water
14 classified as Class A on or before July 1, 2023, except for on-site disposal of
15 sewage from systems with a capacity of 1,000 gallons per day (gpd), or less,
16 that are either exempt from or comply with the ~~environmental protection rules,~~
17 permitting requirements of chapter 64 of this title or existing systems, which
18 shall require a permit according to the provisions of subsection 1263(f) of this
19 title. For all other waters, the Secretary may permit the on-site disposal of
20 wastewater from a system with a capacity of less than 6,500 gpd, provided that
21 the permit is issued according to the requirements of chapter 64 of this title.

1 The on-site disposal of sewage from a system with the capacity of 6,500
2 gallons or more per day shall require an individual permit issued according to
3 the requirements of subsection 1263(f) of this title.

4 Sec. 3. 10 V.S.A. § 1263(f) is amended to read:

5 (f) ~~Existing indirect~~ Indirect discharges to the waters of the State from on-
6 site disposal of sewage shall comply with and be subject to the provisions of
7 this chapter; and shall obtain the required permit, ~~no later than July 1, 1991.~~
8 Notwithstanding the requirements of subsections 1259(d) and (e) of this title,
9 the Secretary shall grant a permit for an existing or new indirect discharge to
10 the waters of the State for on-site disposal of sewage unless ~~he or she~~ the
11 Secretary finds that the discharge violates the water quality standards. ~~Existing~~
12 ~~indirect discharges from on-site sewage disposal systems of less than 6,500~~
13 ~~gpd capacity shall not require a permit.~~

14 Sec. 4. 10 V.S.A. § 1973(f)(1) is amended to read:

15 (f)(1) The Secretary shall give deference to a certification by a licensed
16 designer with respect to the engineering design or judgment exercised by the
17 designer in order to minimize Agency review of certified designs, except for
18 systems with a design flow of more than 1,000 gallons per day located in the
19 watersheds of Class A or Class B(1) waters. Systems with a design flow of
20 more than 1,000 gallons per day that are located in a Class A or Class B(1)
21 watershed shall be reviewed by the Secretary to determine if there would be a

1 measurable reduction in the chemical, physical, or biological quality of the
2 receiving water as a result of the system and, when required under the Agency
3 of Natural Resources Antidegradation Implementation Rule, the Secretary shall
4 conduct a Tier 2 Analysis that includes a site specific analysis and a
5 cumulative impact analysis, as required by the Vermont Water Quality
6 Standards, to ensure the protection of Class A and Class B(1) waters. Nothing
7 in this section shall limit the responsibility of the licensed designer to comply
8 with all standards and rules, or the authority of the Secretary to review and
9 comment on design aspects of an application or to enforce Agency rules with
10 respect to the design or the design certification.

11 Sec. 5. 10 V.S.A. § 1252 is amended to read:

12 § 1252. CLASSIFICATION OF ~~HIGH QUALITY~~ HIGH-QUALITY
13 WATERS; MIXING ZONES

14 * * *

15 (i) During the triennial rulemaking for the Vermont Water Quality
16 Standards, the Secretary, on the Secretary's own motion or on receipt of an
17 administratively and technically complete petition, shall propose to reclassify
18 any waters where water quality data meets or exceeds the minimum criteria for
19 a higher class for one or more designated uses and that have been proposed as
20 candidate waters for reclassification by the Secretary. In the event that
21 triennial rulemaking for the Vermont Water Quality Standards does not occur

1 every three years from the date of the most recent revision to the Vermont
2 Water Quality Standards, the Secretary, on the Secretary's own motion or on
3 receipt of an administratively and technically complete petition, shall propose
4 to reclassify any waters where water quality data meets or exceeds the
5 minimum criteria for a higher class for one or more designated uses and that
6 have been proposed as candidate waters for reclassification by the Secretary.

7 Sec. 6. 10 V.S.A. § 1253(i) is added to read:

8 (i) Beginning on January 15, 2024, and biennially thereafter, the Secretary
9 shall report to the House Committee on Environment and Energy and the
10 Senate Committee on Natural Resources and Energy on the status of very high-
11 quality waters, Class A and B(1). The report shall include:

12 (1) a listing of the waters where water quality data meets or exceeds the
13 minimum criteria for a higher class for one or more designated uses and that
14 have been proposed as candidate waters for reclassification or petitioned for
15 reclassification;

16 (2) the Secretary's observations about whether the General Assembly's
17 decision to lift the 1,000 gallon per day indirect discharge prohibition in Class
18 A waters actually improved the Secretary's overall ability to reclassify waters;

19 (3) the number of wastewater system permits and other discharge
20 permits issued in very high-quality waters; and

21 (4) progress made and difficulties encountered during reclassification.

1 Sec. 7. NONPOINT SOURCE POLLUTION STAKEHOLDER

2 GROUP; REPORT

3 (a) Creation. The Secretary, in consultation with the Secretary of
4 Agriculture, Food and Markets, shall convene the Nonpoint Source Pollution
5 in Class A and B(1) Waters Stakeholder Group to review, investigate, and
6 make recommendations regarding the State antidegradation policy as it relates
7 to nonpoint source pollution in high-quality waters.

8 (b) Duties. The Nonpoint Source Pollution in in Class A and B(1) Waters
9 Stakeholder Group shall:

10 (1) analyze whether the Required Agricultural Practices (RAPs) and the
11 Acceptable Management Practices for Maintaining Water Quality on Logging
12 Jobs in Vermont (AMPs) are sufficient to protect Class A and B(1) waters; and

13 (2) recommend whether amendments to statute or rule are necessary to
14 improve the regulation of nonpoint source pollution from agricultural and
15 timber harvesting, including:

16 (A) whether or how to apply the Vermont Antidegradation Policy to
17 nonpoint source pollution from agriculture or timber harvesting;

18 (B) whether and how to regulate runoff from subsurface tile drains in
19 a manner consistent with the Vermont Water Quality Standards; and

20 (C) whether or how to improve management of nonpoint source
21 pollution from timber harvesting, including whether to mandate

1 implementation of the AMPs on all timber harvests and whether to require
2 timber harvesters to notify the State of harvest sites prior to initiation of
3 harvest.

4 (c) Report. Upon the conclusion of the Stakeholder Group's meetings, the
5 Stakeholder Group shall prepare and submit a written report on or before
6 January 15, 2024 to the House Committee on Environment and Energy and
7 Senate Committee on Natural Resources and Energy providing its findings and
8 recommendations on whether the RAPs and AMPs are sufficient to protect
9 Class A and B(1) waters.

10 Sec. 8. EFFECTIVE DATE

11 (a) This section and Secs. 1 (findings) and 7 (nonpoint pollution report)
12 shall take effect on passage.

13 (b) Secs. 2–6 (indirect discharge; classification of waters) shall take effect
14 on the effective date of the Agency of Natural Resources Antidegradation
15 Implementation Rule.